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Judge Colleen McMahon

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re Coronavirus/COVID-19 Pandemic

M 10--468 (CM)

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This Document Relates To: Pandemic Bail
Report Dissemination and Confidentiality

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McMahon, C.J.:

WHEREAS, due to the COVID-19 pandemic, SDNY has implemented remote interview and presentment procedures per the Southern District of New York's Emergency Continuity of Operations Plan for continued operations under an emergency or pandemic such as we are currently experiencing; and

WHEREAS, during normal operations, when all relevant parties are present in court for initial presentments or bail matters, physical copies of pretrial services reports are disseminated to the AUSA and Defense. Those copies are then returned to the pretrial officer covering the hearing at the conclusion of each hearing; and

WHEREAS, confidentiality regulations in general limit the use of pretrial reports to bail matters only and prohibit the parties from retaining physical copies following these hearings. See *Guide to Judiciary Policy*, Vol 8A: Probation and Pretrial Services, Pt A: Pretrial Services Investigation and Report (Monograph 112), Appx 5A: Confidentiality Regulations. Section 4 D (1):

"The pretrial services report shall be made available to the defendant, the attorney for the defendant, and the attorney for the Government pursuant to the practice and procedure of the district court in connection with a pretrial release or detention hearing, a pretrial release revocation proceeding, or any judicial proceeding to modify the conditions of release. Any copies of the pretrial services report disclosed under this provision shall be returned to the pretrial services officer at the conclusion of the hearing." and

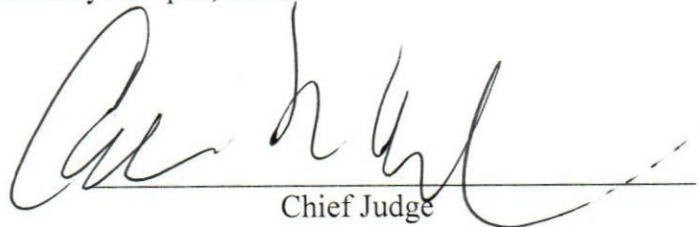
WHEREAS, due to the current pandemic and implementation of the SDNY Continuity of Operations Plan, communications amongst the parties involved in a case are not being done face to face and presentments are being done virtually, which makes it impossible for a pretrial officer to physically distribute reports to the parties and collect these documents at the conclusion of each hearing;

IT IS THEREFORE ORDERED, that until such time as the Southern District of New York is no longer functioning under the current limited operations plan as necessitated by the COVID-19 pandemic, the Court suspends the above-cited regulation and authorizes electronic dissemination

of pretrial reports to the parties for initial presentments and any hearings that involve bail, including violations, and it is further

ORDERED, that to preserve the confidentiality of pretrial reports, all Assistant United States Attorneys and Defense Counsel who receive electronic copies of said pretrial services reports are ordered, and will be directed by Pretrial Services, to delete the emails containing such reports and to destroy any hard copies of such reports following any such hearing.

Entered at New York, New York this first day of April, 2020



Chief Judge